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8 Attorney for Defendant  
9 ALAN JOHNSTON

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12 CORY SPENCER, an individual;  
13 DIANA MILENA REED, an  
14 individual; and COASTAL  
15 PROTECTION RANGERS, INC., a  
16 California non-profit public benefit  
17 corporation;

18 Plaintiffs,

19 v.

20 LUNADA BAY BOYS; THE  
21 INDIVIDUAL MEMBERS OF THE  
22 LUNADA BAY BOYS, including but  
23 not limited to SANG LEE, BRANT  
24 BLAKEMAN, ALAN JOHNSTON  
25 aka JALIAN JOHNSTON, MICHAEL  
26 RAE PAPAYANS, ANGELO  
27 FERRARA, FRANK FERRARA,  
28 CHARLIE FERRARA, and N.F.;  
CITY OF PALOS VERDES  
ESTATES; CHIEF OF POLICE  
JEFF KEPLEY, in his representative  
capacity; and DOES 1 – 10,

Defendants.

Case No. 2:16-cv-02129-SJO (RAOx)

**STATEMENT OF  
UNCONTROVERTED FACTS AND  
CONCLUSIONS OF LAW**

Hearing Date: August 21, 2017  
Hearing Time: 10:00 A.M.  
Judge: Hon. James Otero  
Courtroom: 10C

1 Pursuant to Central District of California Rule 56-1, Defendant Alan  
2 Johnston, as the moving party in the concurrently filed motion for summary  
3 judgment, submits this proposed “Statement of Uncontroverted Facts and  
4 Conclusions of Law” and proposed judgment.

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6 **UNCONTROVERTED FACTS**

- 7 1. Plaintiff Corey Spencer has not seen Defendant Alan Johnston.  
8 [Declaration of J. Patrick Carey (“Carey Decl.”), ¶ 3, Exhibit 1,  
9 Deposition of Plaintiff Cory Spencer (“Spencer Depo.”), 323:17-20.]
- 10 2. On February 13, 2016, Defendant Johnston approached Plaintiff  
11 Reed at the patio structure at Lunada Bay. Carrying his surfboard  
12 preparing to go surfing, he stated, “Another day in [expletive]  
13 paradise.” [Declaration of J. Patrick Carey (“Carey Decl.”), ¶ 5,  
14 Exhibit 3, Screenshots from Video of February 13, 2016 incident  
15 (“Feb 13 Video”).]
- 16 3. Defendant Johnston reached into his backpack and grabbed a can  
17 of beer. He asked Plaintiff Reed and her friend if they were drinking  
18 and if they wanted a beer. [Declaration of J. Patrick Carey (“Carey  
19 Decl.”), ¶ 5, Exhibit 3, Screenshots from Video of February 13, 2016  
20 incident (“Feb 13 Video”).]
- 21 4. Defendant Johnston then opened his can of beer. A small amount  
22 of foam from the beer sprayed onto Plaintiff Reed’s sweater sleeve  
23 and her camera as Defendant Johnston opened the beer.  
24 [Declaration of J. Patrick Carey (“Carey Decl.”), ¶ 5, Exhibit 3,  
25 Screenshots from Video of February 13, 2016 incident (“Feb 13  
26 Video”).]
- 27 5. Plaintiff Reed’s camera was not damaged. [Declaration of J.  
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Patrick Carey (“Carey Decl.”), ¶ 4, Exhibit 2, Deposition of Plaintiff Diana Reed (“Reed Depo.”), 176:5-6.]

**CONCLUSIONS OF LAW**

1. Plaintiffs Corey Spencer, Diana Reed, and Coastal Protection Rangers, Inc. (collectively “Plaintiffs”) do not have evidence sufficient to prove that Defendant Johnston committed a battery upon Plaintiffs.
2. Plaintiffs do not have evidence sufficient to prove that Defendant Johnston committed an assault upon Plaintiffs.
3. Plaintiffs do not have evidence sufficient to prove that Defendant Johnston was negligent toward Plaintiffs.
4. Plaintiffs do not have evidence sufficient to prove that Defendant Johnston committed acts of public nuisance against Plaintiffs.
5. Plaintiffs do not have evidence sufficient to prove that Defendant Johnston interfered with or attempted to interfere with Plaintiffs exercise or enjoyment of federal or state constitutional rights in violation of California’s Bane Act, California *Civil Code* § 52.1(b).
6. Judgment should be entered favor of Defendant Johnston forthwith.

DATED: July 24, 2017

LAW OFFICES OF J. PATRICK CAREY

By: /s/ J. Patrick Carey  
J. Patrick Carey  
Attorney for Defendant  
ALAN JOHNSTON

**PROPOSED JUDGMENT**

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After consideration of the papers in support of and in opposition to Defendant Alan Johnston’s motion for summary judgment and the oral argument of counsel, this court orders summary judgment in favor of Defendant Alan Johnson.

DATED: July 24, 2017

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Hon. S. James Otero  
United States District Judge